IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7766 OF 2005

Shri Sanjay Tukaram Pawar ..Petitioner

Vs.

State of Maharashtra and ors. ..Respondents

Ms. A.R.S. Baxi for petitioner.
Mrs.M.P. Thakur, AGP for respondent nos.1 & 2.
Mr. I.M. Khairdi h/f Mr. V.B. Naik for respondent nos.3 and 4.

CORAM: B.H. MARLAPALLE & NARESH H. PATIL,JJ.

Date : September 11, 2006.

P.C.:

1. Heard Ms. Baxi the learned counsel for the petitioner and Mr.Khairdi the learned counsel for the respondent nos.3 and 4. Mrs.Thakur the learned AGP appears for respondent nos.1 and 2.

2. The petitioner claims that he was appointed as a Peon by the respondent no.3 and under the respondent no.4 school but was restrained from signing the muster roll from 18/1/2005. He issued notices to the respondent nos.3 and 4 on 14/3/2005 as well as

16/3/2005 and as he was not allowed to report for duty he has filed this petition.

3. Mr. Khairdi the learned counsel for the respondent nos.3 and 4 has pointed out that a reply was given to the notices issued by the petitioner. At exhibit "C" to the petition memo is the reply dated 23/3/2005 given to the petitioner by Shri Nitin Habib, Advocate on behalf of the respondent-management and this document is placed on record by the petitioner himself which clearly indicates that the petitioner's Advocate Mrs. Sangeeta Deshmukh Yadav had received this reply dated 23/3/2005. In the said reply it has been clearly stated that the petitioner was removed from service before completion of his probation period and he was not in service after 18/1/2005. The management thus maintained that the petitioner was removed from service and legally. These claims and counter claims can be more efficaciously examined in an appeal under Section 9 of the M.E.P.S. Act, 1977.

4. We, therefore, dispose off the petition by relegating the petitioner to the alternative remedy of filing an appeal under Section 9 of the M.E.P.S. Act,

1977 before the School Tribunal and if such an appeal is filed within a period of four weeks from today, we direct that the same shall be decided on merits.

(Naresh H. Patil, J.) **(B.H. Marlapalle,J.)**